

COMMUNITY CARE LICENSING DIVISION

*"Promoting Healthy, Safe and
Supportive Community Care"*

TECHNICAL SUPPORT PROGRAM

Self-Assessment Guide

RESIDENTIAL CARE FACILITY FOR THE ELDERLY HOSPICE CARE FOR THE TERMINALLY ILL



CDSS

CALIFORNIA
DEPARTMENT OF
SOCIAL SERVICES

TECHNICAL SUPPORT PROGRAM HOSPICE CARE FOR THE TERMINALLY ILL RESIDENTIAL CARE FACILITIES FOR THE ELDERLY

This guide is intended to help care providers comply with hospice care requirements. Hospice care is specialized health care and emotional support for individuals in the advancing stages of a terminal illness. Hospice care allows terminally ill persons to live their lives as fully as possible. A hospice care waiver from the local licensing office will allow terminally ill residents to stay in the facility, their "home," until their death occurs or their needs can no longer be met within the scope of the license. Facilities with hospice care waivers must still comply with regulations governing prohibited health conditions. The approved hospice care waiver will allow medical procedures to be provided in the facility by appropriately skilled professionals and others designated in each resident's hospice care plan. Remember that only residents who have contracted with a hospice agency to receive services can receive hospice care within the facility.

Caring for terminally ill residents is a great responsibility for Residential Care Facility for the Elderly care providers. The regulations that apply to hospice care are contained in sections 87101, 87716, 87116.1, 87223, 87575, and 87575.1. Specific regulation sections are listed after each requirement in this guide. The regulations cover hospice care, the facility hospice waiver, the hospice care plan, staff records and training, resident records, and reporting requirements.

This guide is not a substitute for knowing and understanding the regulations. If you have questions on any of the requirements, refer to the regulations and/or contact your local licensing office.

Definitions

Section 87101

The following are some of the hospice care terms you will need to know:

- ◆ **Advance Health Care Directive:** A written instruction about who can make health care decisions when the resident is unable to do so for him/herself. Advance directives include but are not limited to a Durable Power of Attorney for Health Care, an Individual Health Care Instruction, a Request to Forego Resuscitative Measures, or a Do Not Resuscitate Form. In an advance directive, a person states choices for medical treatment and/or designates who should make treatment choices if the resident loses his/her decision-making capacity.

Do-Not-Resuscitate (DNR) Form: A pre-hospital DNR form is developed by the California Emergency Medical Services Authority and by other local emergency medical service agencies. This form is completed by a resident or the resident's Health Care Surrogate Decision maker, and by a physician to alert pre-hospital emergency service personnel to the resident's wish to forego resuscitate measures in the event of cardiac or respiratory arrest.

Definitions (Continued)

- ◆ **Facility Hospice Care Waiver:** A waiver granted by the Department that permits the retention in a facility of a designated maximum number of terminally ill residents who are receiving hospice services from a hospice agency. The waiver applies only to those residents who are receiving hospice care and meets the requirement of Section 87716.
- **Health Care Surrogate Decision Maker:** Someone who participates in making health care decisions for a resident who is no longer able to do so. Health care surrogate decision makers may be formally appointed by the resident in a Durable Power of Attorney for Health Care or by a court in a conservatorship proceeding. Absent a formal appointment, someone may be recognized as the health care surrogate decision maker by virtue of a relationship with the resident (e.g., the resident's next of kin). The licensee or any staff member of the facility may not be a health care surrogate decision maker.
- ◆ **Hospice or Hospice Agency:** An entity which provides hospice services to terminally ill persons, is Medicare certified for hospice, and holds either a Hospice license or a Home Health Agency license from the California Department of Health Services. This includes any group or individual the hospice agency contracts with to provide services. The hospice agency providing services in an RCFE may not subcontract with the licensee or any facility staff to provide services.
- ◆ **Request to Forego Resuscitative Measures:** A written document signed by the individual, or a legally recognized surrogate health care decision maker, and a physician and surgeon, that directs a health care provider to forego resuscitative measures. For the purpose of this section, a "request to forego resuscitative measures" shall include a pre-hospital "do not resuscitate" form.
- ◆ **Terminally Ill Resident:** The resident's attending physician has determined that the resident's life expectancy is six months or less if his/her illness or condition runs its normal course.

Requirements to Provide Hospice

Licensees may retain terminally ill residents who receive hospice services if all of the following conditions are met.

- ◆ The licensee has an approved hospice care waiver. 87716(a)(1)
- ◆ The licensee remains in substantial compliance with all requirements in Section 1569 et seq. of the California Health and Safety Code, all regulations governing Residential Care Facilities for the Elderly, and with all terms and conditions of the hospice care waiver. 87716(a)(2)

Requirements to Provide Hospice (Continued)

- ◆ The licensee ensures that each terminally ill resident, or the resident's health care surrogate decision maker contracts with a hospice agency for services. The hospice agency must be licensed by the state and certified by the federal Medicare program. 87716(a)(3)
- ◆ Each terminally ill resident's hospice agency develops a hospice care plan agreed to by the licensee and resident or their Health Care Surrogate Decision Maker prior to beginning hospice services and all hospice care plans are implemented by the licensee and the hospice(s). 87716(a)(4)
- ◆ The licensee ensures that terminally ill residents do not pose a health and safety threat, or violate the personal rights of any facility resident. 87716(a)(5)
- ◆ The hospice agency and the resident agree to provide the licensee with all information needed by the licensee to meet regulatory requirements and to assure that the resident's needs are met. 87716(a)(6)
- ◆ Approval from the department is not needed for any of the restricted health conditions listed in Section 87701.1, provided the resident is currently receiving hospice care, and the restricted health condition is addressed in the hospice care plan. 87716(j)

Residents receiving hospice care who are bedridden may reside in the facility provided the facility notifies the local fire authority of the estimated length of time the resident will be bedridden. Notification must occur within 48 hours of the individual's bedridden status. 87716(l)

- ◆ The Department can require the relocation of a terminally ill resident whose needs for personal care and supervision or health care are not being met in the facility. 87716(m)

Requirements for A Hospice Care Waiver

If the licensee expects to permit current or future residents to receive hospice care within the facility, the licensee must obtain a hospice care waiver from the local licensing office. This written waiver request must include:

- ◆ The number of terminally ill residents the facility will have at any one time. This should be based on how many persons the facility can safely care for at one time. Remember, terminally ill residents will usually require more care than other residents. 87716.1(a)(1)
- ◆ A statement by the licensee that he/she has read Section 87716, 87716.1 and all other requirements of the RCFE regulations and that he/she will comply with these requirements. 87716.1(a)(2)

Requirements for A Hospice Care Waiver (Continued)

- ◆ A statement by the licensee that he/she will meet all terms and conditions of the hospice care plan that are the licensee's responsibility or under the licensee's control. 87716.1(a)(3)
- ◆ A statement that the licensee will provide additional care staff if required by the hospice care plan. 87716.1(c)

Submit the waiver request to your local licensing office for review and approval. The request for a waiver must be approved before any hospice care can be provided. The Department may deny a waiver request if the licensee is not in substantial compliance or does not demonstrate the ability to meet the care and supervision needs of residents.

Requirements For The Hospice Care Plan

The Hospice Care Plan is the hospice agency's individual written plan of care for each terminally ill resident. The hospice agency is responsible for developing and maintaining the plan and quality of hospice services delivered. A hospice care plan must include the following information:

- ◆ List the name, office address, business telephone number and 24-hour emergency telephone number of the hospice agency. 87716(b)(1)
- ◆ Describe the services to be provided in the facility by the hospice agency. 87716(b)(2)
- ◆ Designate both the hospice agency contact person, the primary care giver and identify alternate caregivers. 87716(b)(3)
- ◆ Describe the licensee's responsibilities for carrying out the plan including: facility staff duties; record keeping; communication with the hospice agency, resident's physician and resident's responsible person, if any; storage and/or handling of medication; and maintenance and use of medical supplies and equipment. 87716(b)(4)(A)
- ◆ List the name or job function of the hospice agency's health care professional who will control and supervise the storage and administration of all controlled drugs. (Schedule II-V). 87716(b)(4)(B)
- ◆ Describe all hospice services to be provided or arranged in the facility by persons other than the licensee, facility staff, or hospice agency. 87716(b)(5)
- ◆ Identify training needed by facility staff and who will provide training on the licensee's responsibilities for implementation of the plan. 87716(b)(6)

- 1) Training must include typical needs of hospice patients, such as turning and

incontinence care, hydration and infection control.

Requirements For The Hospice Care Plan (Continued)

- 2) The hospice agency must provide training about the needs of each hospice resident before providing hospice care to that resident.
- ◆ The licensee must keep a record of all hospice related training provided to the licensee or facility staff. The records must be kept for three years and must be made available for review by the local licensing office. The records must include the names and credentials of the trainers, staff trained, topics of training, and length of each training session. 87716(f)(1)
 - ◆ The plan cannot require or recommend that the licensee or facility staff, unless they are a physician or appropriately skilled professional, perform any health care procedure which may legally be performed only by a physician or appropriately skilled professional. 87716(b)(4)(C), 87716(j)(1)
 - ◆ Any other information required by the Licensing Office to ensure that the terminally ill resident's needs are met. 87716(b)(7)

Responsibilities of the Licensee

- ◆ The licensee is responsible for ensuring that each resident's care needs are being met at all times, that the hospice care plan is current and accurately matches the services being provided, and for complying with all requirements for RCFE. 87716(c)(d)
- ◆ The Department may require the licensee to obtain a revised hospice care plan if the plan is not being carried out or revision is necessary to protect the health and safety of any resident. 87716(e)

Hospice Resident Records

The licensee must keep the following in each hospice resident's record:

- ◆ A written and signed request from the resident or health care surrogate decision maker that the resident wants to stay in the facility and receive hospice services in the facility, along with any Advance Health Care Directive, Request to Forego Resuscitative Measures, and/or Do Not Resuscitate Form. 87716(h)(1)
- ◆ A copy of a written statement of the resident's terminal illness from the resident's physician, if any, and the medical director of the hospice or physician member of the hospice interdisciplinary group. 87716(h)(3)
- ◆ A copy of the resident's current hospice plan approved by the licensee, the hospice agency and the resident or surrogate decision maker. 87716(h)(4)
- ◆ A signed statement by the resident's roommate, if any, indicating his or her

acknowledgement that the resident intends to receive hospice care in the facility for
Hospice Resident Records (Continued)

- ◆ the remainder of the resident's life, and agreeing to allow hospice caregivers, and the resident's support network of family members, friends, clergy, and others into the shared living space. If the roommate withdraws the agreement verbally, or in writing, the licensee must make other arrangements that fully meet the needs of the hospice resident. 87716(h)(5)
- ◆ The name, office address, business telephone number and 24-hour emergency telephone number of the hospice agency and health care surrogate decision maker, if any. 87575(h)(2)

Hospice Care Medication Procedures

The licensee must:

- ◆ Keep a medication dosage record of centrally stored medications for each hospice resident. 87716(k)
- ◆ Dispose of prescription medications not taken with the resident. Section 87575(i)

Hospice Care Reporting Requirements

The licensee must:

- ◆ Notify the local licensing office in writing within five working days of beginning hospice services for any terminally ill resident. (For meeting this requirement, working days are Monday through Friday, excluding holidays.) The notice must include the resident's name, date of admission to the facility and name and address of the hospice agency. 87716.1(d)(2)
- ◆ Report to the local licensing office by telephone within one working day and in writing within five working days when:
 - 1) A terminally ill resident's hospice services are interrupted or discontinued for any reason other than the expected death of the resident.
 - 2) There is any deviation from the resident's hospice care plan.
 - 3) Any incident associated with hospice services threatens the health and safety of any resident.

Reports must include: the name, age, and sex of each affected resident; date, nature of the event, and background information leading to the event; name and business telephone number of the hospice agency; and actions taken by the licensee or other persons to resolve the event and prevent recurrence. 87716(g)

- ◆ Notify the hospice agency and health care surrogate decision maker, if applicable of

any medical emergency involving the resident. 87575.1(c)

Hospice Care Reporting Requirements (Continued)

- ◆ Ensure that the disaster and mass casualty plan requires notification of the resident's hospice agency in case of evacuation and/or relocation. 87223(b)(3)

PROCEDURES FOR MEDICAL EMERGENCIES AND RESUSCITATION

- ◆ Upon admission, the Licensee shall provide each resident, and representative or responsible person with written information about the right to make decisions concerning medical care. This information shall include, but not limited to, the Department's approved brochure entitled "Your Right to Make Decisions About Medical Treatment," PUB 325, (3/99), and a copy of Sections 87575.1(b) and (c) of the regulations. 87575.1(a)
- ◆ Residents shall be permitted to have a Request to Forego Resuscitative Measures, an Advance Health Care Directive and/or a Do-Not-Resuscitate (DNR) Form in their facility file. 87575.1(b)
- ◆ Physicians, RNs and LVNs who are not employed by the facility but are in the resident's presence and assume the responsibility at the time of the emergency may honor requests to forego resuscitative measures. Licensees who are physicians, Registered Nurses (RNs) or Licensed Vocational Nurses (LVNs) are prohibited from honoring Do-Not-Resuscitate orders. 87575.1(c)Health and Safety Code 1569.74
- ◆ If a facility employee is a physician, RN and/or LVN and is on the facility premises at the time of the medical emergency, he/she may honor the request to forego resuscitation provided the facility has established procedures to honor a request to forego resuscitative measures. In these situations it is not necessary to call 911. This applies to facility employees only.
- ◆ Effective January 1, 2004, licensees and/or facility staff may contact the hospice agency in lieu of calling emergency response services if all of the following conditions are met:
 1. The client/resident is receiving hospice services from a licensed hospice agency.
 2. The client/resident has completed an advance health care directive, requesting to forego resuscitative measures.
 3. The facility has documented that facility staff have received training from the hospice agency on the expected course of the client's/resident's illness and the symptoms of impending death.

PROCEDURES TO HONOR A REQUEST TO FOREGO RESUSCITATIVE MEASURES

Licensed RCFE that employ health care providers may establish policies to honor a request to forego resuscitative measures. The procedures must meet the following requirements: 87575.1(3)(a), Health and Safety Code 1569.

PROCEDURES TO HONOR A REQUEST TO FOREGO RESUSCITATIVE MEASURES (Continued)

- ◆ The procedure must be in writing. 87575.1(c)(3)(b)(1)
- ◆ The procedure must be available in the facility for review by the Department. 87575.1(c)(3)(b)(2)
- ◆ The licensee must ensure that all staff is aware of the procedure. 87575.1 (c)(3)(b)(3)
- ◆ A copy of the procedure must be given to each resident and the resident's primary physician. 87575.1 (c)(3)(b)(4)
- ◆ A copy of the resident's request to forego resuscitative measures shall be kept in the resident's file and be available to facility staff, the licensed health care provider and the Department. 87575.1 (c)(3)(b)(5)
- ◆ A copy of the resident's request to forego resuscitative measures must be given to the resident's primary physician. 87575.1 (c)(3)(b)(7)
- ◆ Facility staff cannot witness a request to forego resuscitative measures or be surrogate decision maker for any directive document. 87575.1 (c)(3)(b)(6)
- ◆ The physician, RN or LVN, employed by the facility, **must be on the facility premises at the time of the emergency** in order to honor the request to forego resuscitative measures. 87575.1 (c)(3)(c)